



COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION  
100 Civic Center Drive, P.O. Box 1768, Newport Beach, CA 92658-8915  
(949) 644-3200 Fax: (949) 644-3229  
[www.newportbeachca.gov](http://www.newportbeachca.gov)

**CITY OF NEWPORT BEACH  
ZONING ADMINISTRATOR STAFF REPORT**

August 29, 2013  
Agenda Item No. 4

**SUBJECT:** Annual Review of Newport Harbor Lutheran Church Development Agreement (PA2009-137)  
798 Dover Drive

**APPLICANT:** Newport Harbor Lutheran Church

**PLANNER:** Fern Nueno, Associate Planner  
(949) 644-3227, [fnueno@newportbeachca.gov](mailto:fnueno@newportbeachca.gov)

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**ZONING DISTRICT/GENERAL PLAN**

- **Zone:** PC 2 (Newport Harbor Lutheran Church Planned Community)
- **General Plan:** PI (Private Institutions)

**PROJECT SUMMARY**

An annual review of Development Agreement No. 10 for Newport Harbor Lutheran Church, pursuant to Section 15.45.080 of the Newport Beach Municipal Code and Section 65865.1 of the California Government Code.

**RECOMMENDATION**

- 1) Conduct a public hearing;
- 2) Find the review exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15321 (Class 21 - Enforcement Actions by Regulatory Agencies) of the CEQA Guidelines;
- 3) Find that the applicant has demonstrated good faith compliance with the terms of the Development Agreement; and
- 4) Receive and file the Annual Report of the Development Agreement for Newport Harbor Lutheran Church (Attachment No. ZA 2).

## **DISCUSSION**

Section 15.45.080 of the Municipal Code requires the City to periodically review development agreements to determine if the applicant has complied with the terms of the agreement. This review should be conducted at least once every 12 months. On June 11, 2013, the City Council adopted Ordinance No. 2013-10 approving a change in the process for reviewing development agreements and resulting in the review being conducted by the Zoning Administrator instead of the City Council. The applicant is required to demonstrate good faith compliance with the terms of the agreement, and should the Zoning Administrator find that the applicant has not complied in good faith with the agreement, the Zoning Administrator should refer the matter to the City Council.

### *Background*

On June 23, 1997, the City Council adopted Ordinance No. 97-22 approving Development Agreement No. 10 ("DA") between the City of Newport Beach and the Newport Harbor Lutheran Church ("Church"), and the ordinance became effective on July 24, 1997. As part of the City Council's approval of the DA, the following requests were also approved: General Plan Amendment No. 95-2(E), Local Coastal Program Amendment No. 47, and Planning Commission Amendment No. 860 for the adoption of Planned Community District Regulations for the Church. The term of the DA is for a period of 25 years and will be in effect to the year of 2022.

The DA is available online at: <http://www.newportbeachca.gov/developmentagreements>. At the last annual review on May 22, 2012, the City Council found the Church to be in good faith compliance with the DA.

### *Terms and Conditions*

The Church is subject to the terms and conditions specified in the DA. The purpose of the DA is to:

- Grant vested development rights of 40,000 square feet to the Church for the future expansion of its facilities and uses on Church property;
- Provide for the Church's conveyance to the City of approximately 0.65 acres of Church property for use as a public parking facility to serve Bob Henry Park and Castaways Park, in consideration of the City's conveyance of 0.65 acres of City property to the Church;
- Provide for the construction of parking areas and other improvements on the Church property to replace existing parking spaces located on the property conveyed to the City; and

- Restore or replace other Church improvements impacted by the City's project and/or in consideration for the exchange of property.

To date, the terms and conditions of the DA have been implemented and/or accomplished except for the planned expansion of the Church. When the DA was approved, the Church was approximately 14,232 square feet, so the remaining unbuilt entitlement is 25,768 square feet.

### *Annual Review*

Since the last DA review, construction of three modular classrooms totaling 2,880 square feet has been completed. The building permit was finalized on August 28, 2012. The Church is allowed six modular classrooms to be in place until the Church either a) determines the school is not a use they would like to maintain and permanent facilities are not needed, or b) obtains the necessary funding to construct permanent classroom facilities.

On June 26, 2013, building permits were finalized for the construction of a clock tower that houses a wireless telecommunication facility. The permit application was submitted by AT&T, and the Church was part of the application only as the property owner.

After reviewing the Annual Report (Attachment No. ZA 2) and applicable documents, staff believes that Church continues to comply in good faith with terms and conditions of the DA.

### **ENVIRONMENTAL REVIEW**

This project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15321 (Enforcement Actions by Regulatory Agencies) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment. This section exempts actions by regulatory agencies to enforce or revoke a lease, permit, license, certificate, or other entitlement for use issued, adopted, or prescribed by the regulatory agency or enforcement of a law, general rule, standard, or objective, administered or adopted by the regulatory agency.

### **PUBLIC NOTICE**

Notice of this review was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days before the scheduled hearing, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

**APPEAL PERIOD**

An appeal may be filed with the City Clerk within 14 days following the date of action. For additional information on filing an appeal, contact the City Clerk's Office at (949) 644-3005.

Prepared by:

  
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Fern Nueno, Associate Planner

JC/fn

Attachments:      ZA 1      Vicinity Map  
                         ZA 2      Annual Report

# **Attachment No. ZA 1**

Vicinity Map

# VICINITY MAP



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Annual Review of Development Agreement No. 10  
Newport Harbor Lutheran Church  
PA2009-137

**798 Dover Drive**

# **Attachment No. ZA 2**

Annual Report



**NEWPORT HARBOR**

LUTHERAN CHURCH & SCHOOL

*Christ is our anchor.*

*A worshipping family, anchored in Christ,  
providing safe harbor for all.*

July 10, 2013

Ms. Fern Nueno  
Associate Planner, City of Newport Beach  
Community Development Department  
100 Civic Center Drive  
Newport Beach, CA 92660

Dear Ms. Nueno,

Since our last review of the terms and conditions listed in the 1997 Development Agreement 10 between Newport Harbor Lutheran Church and the City of Newport Beach, the first phase of the school expansion project was completed and a pre-kindergarten program was opened in September 2012. At that time, a one-year grace period was granted for the installation of fire monitoring systems in the 3 classrooms, and we expect that to be finished by September of this year when a kindergarten class will occupy the second of the modular buildings and the children's music teacher will conduct her classes in the third building. We are currently assessing the timing for the installation of the other 3 previously approved modular structures that are to be placed on the site according to the zoning commission's conditions.

The construction of the AT&T clock tower is complete with the exception of some minor cosmetic modifications. The tower houses their new 4G and 4GLTE antennae as well as an antenna for RACES, the group which helps with the city and county response to emergencies.

We are continuing to address the long-range development of our campus under the terms of the development agreement, and we will promptly report any pertinent construction plans.

Please contact me if any other information is needed for this year's review.

Sincerely,

Bradley R. Stienstra  
Pastor

P.S. Please send a copy of the 2012 City Council Staff Report you listed as attached in your letter. The letter we received came unaccompanied by any attachment.